IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14981 of 2004

Between:

P.Venkatesulu, s/o Appanna,
N.Thimmapuram Village, Guntakal Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Guntakal Mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declaring the action of the 1st respondent in dismissing the appeal in his proceedings L.Dis.No.K4/ATP/915/2004, dated 17-8-2004 as illegal, arbitrary and consequently direct the respondents not give effect to the proceedings of the 2nd respondent in Rc.No.D1/CS/907/2004, dated 6-8-2004 pending enquiry before him

Counsel for the Petitioner: MR.K.SITA RAM

Counsel for the Respondent.: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

Petitioner is the authorised dealer of the fire price shop of N.Thimmapuram village, Guntakal Mandal, Anantapur District. Second respondent-Revenue Divisional Officer, Anantapur, Anantapur District issued proceedings dated 6.8.2004 suspending the authorisation of the petitioner, pending enquiry into the alleged irregularities in distributing the Essential Commodities. It appears that before passing the said order, a show cause notice was issued to the petitioner and having considered the explanation filed by the petitioner, second respondent-Revenue Divisional Officer recorded finding on each charge and suspended the authorisation, pending further enquiry. Petitioner preferred an appeal against the said order of suspension dated 06-08-2004 before first respondent-Joint Collector, Anantapur, Anantapur District.

The first respondent on 17.08.2004 passed the following order in the Appeal, which is under challenge in this writ petition:

> " In the reference 1st read above, the Revenue Divisional Officer, Anantapur has suspended the authorisation of F.P.Shop held by Sri P.Venkatesulu, S/o P.Appanna, N.Thimmapuram Village, Guntakal Mandal pending further enquiry for having committed certain irregularities contravening the conditions of authorisation under A.P. State P.D.S. (Control) Order, 2001.
>
> Aggrieved by the orders, the above F.P.Shop dealer has filed an appeal before the Joint Collector, Anantapur through his counsel Sri N.C.Sampath Kumar, Anantapur with a request to suspend the orders of Revenue Divisional Officer, Anatapur.
>
> Upon perusing the grounds of appeal and also orders of Revenue Divisional Officer, Anantapur in the reference 1st read above, it is felt

> that there is no need to interfere with the order of Revenue divisional Officer, Anantapur. Accordingly, the case is hereby remanded to the Revenue Divisional Officer, Anantapur with a direction to dispose off the case after due opportunity to the petitioner."

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

Learned counsel for the petitioner contends that the impugned order, which is in the nature of a final order is unsustainable since the same was passed without considering anyone of the contentions raised by the petitioner and without affording an opportunity of hearing to the petitioner.

A perusal of the impugned order dated 17.08.2004 shows that it is a final order in the appeal itself. It is also apparent that no opportunity was given to the petitioner before passing the said order. The first respondent, who is the competent authority to consider the statutory appeal ought not to have disposed of the Appeal mechanically without assigning any reasons in support of his conclusions and particularly without considering the question whether the suspension of authorisation pending enquiry is warranted in the facts and circumstances of the case. Such an order which is cryptic and was passed without notice to the petitioner cannot be sustained. Accordingly, the impugned order is set aside with a direction to the first respondent to consider the appeal afresh and pass appropriate orders in accordance with law after affording due opportunity to the petitioner.

Having regard to the fact that the order of suspension was passed on 6.8.2004 and since the petitioner was deprived of the opportunity to supply the commodities for the month of August 2004, there shall be a further direction to the first respondent to consider the application for stay filed by the petitioner and pass appropriate orders as expeditiously as possible preferably within a period of one week from the date of receipt a copy of this order.

Writ petition is accordingly disposed of. No order as to costs.

24.08.2004

Note: Issue C.c. in two days.

B/o

klp

To

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Guntakal Mandal, Anantapur District.

4 2CCs to G.P. for Civil Supplies, High Court buildings,

Hyderabad(OUT)

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